IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5629 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RATILAL SHAMJIBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR BJ JADEJA for Petitioner

Mr. LR Pujari AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3, 4, 5, 6, 7, 8

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 05/10/2000

ORAL JUDGEMENT

Heard the learned advocate Mr. Jadeja for the petitioner and the learned AGP Mr. Pujari for the first

respondent. None present for the rest of the respondents though served with notice of rule.

This Court, while admitting this petition by issuing rule thereon on 18.10.1991, has passed the following order:

"Rule. The operation of the order passed by theRevenue Tribunal is stayed However, the Mamloatdar is directed to initiate proceedings under sec. 84C of the Bombay Tenancy andAgricultural Lands Act as per the directions of the Deputy Collector, Olpad Division, Surat."

Learned advocate Mr. Jadeja has submitted that the petitioner is prepared to pay the premium for change of new tenure to old tenure and he has no objection if the proceedings are initiated under sec.84C of the said Act as per the directions of the Dy. COllector, Olpad Division. He has also submited that the order of the tribunalmay be set aside and this petition may be disposed of in terms of the aforesaid order passed by this Court while admitting this petition on 18.10.1991.

I have considered the submissions made by Mr. Jadeja as well as Mr. Pujari. In this matter, the Mamlatdar, Kamrej passed order under sec.84C on 29.4.1983 wherein it has been held that the said transaction was contraryto section 43 of the Tenancy Act and no prior permisionwas obtained before transferring the land in question and therefore, land in question was required to be vested in the State Govoernment. In appealno. 8 of 1983 against the said order of the mamlatdar preferred by the petitioner, the order passed by the Mamlatdar dated 29th April, 1983 has been partly set aside and it has been directed to the Mamlatdar to initiate the inquiry under sec.84C a fresh. Saidorder was passed by the Dy. COllector,Olpad Division, Surat on 2nd December, 1985. Revision application against the said order of the Deputy Collector, Olpad Division, Surat preferred by the petitioner before the tribunal was decided by the tribunal on 26.2.1990. I have also perused the order passed by the tribunal. Taking into consideration the passage of about nine years and also considering the facts of the present case, it is necessary that the directions issued by the Dy. COllector, Olpad Division, SUrat are carried out. Of course, it has been made clear by this court in the order passed while admiting this petition. However, learned advocate Mr. Jadeja is not aware about the further proceedings and development of the matter in respect of the directions issued by this

court while admitting this petition.

Therefore, taking into consideration all these aspects and the facts and circumstances of the case, the order dated 26.2.1990 passed by the tribunal in revision application no. 20 of 1986 is quashed and set aside while keeping in view the statement made by Mr. Jadeja, the learned advocate for the petitioner that the petitioners are prepared to pay the premium which is required to be paid under the provisions of the Tenancy Act. Thus, this petition is allowed. Rule is made absolute to the extent indicated hereinabove with no order as to costs. However, if the order dated 18.10.1991 quotted hereinabove is not carried out by the Mamlatdar, Kamrej, then, the Mamlatdar, Kamrej is directed to initiate the proceedings against the petitioner under sec.84C of the Tenancy Act as per the directions given by the Dy. Collector within one month from thedate of receiptof certified copy of this order. Such proceedings are required to be completed within six months from the date of initiation of such proceedings against the petitioners.

5.10.2000 (H.K.Rathod,J.)

Vyas